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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,740	02/12/2004	James W. Voegelé	END5015USNP	5619

27777 7590 01/03/2008  
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NEW BRUNSWICK, NJ 08933-7003

EXAMINER
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ROY, BAISAKHI

ART UNIT	PAPER NUMBER
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3737

MAIL DATE	DELIVERY MODE
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01/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/777,740

Applicant(s)

VOEGELE ET AL.

Examiner

Baisakhi Roy

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 4-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ustuner (6746402). Ustuner discloses a fingertip-mounted minimally invasive surgical instrument and method comprising a finger mount having a proximal and distal end (col. 2 lines 41-49), an ultrasonic transducer and receiver positioned on the distal end of the finger mount (col. 2 lines 47-49). With respect to a tactile feedback transducer positioned within the cavity for contact with the fingertip, Ustuner clearly teaches a tactile feedback element or tactile output element which uses touch stimuli to convey tactile display information to the surgeon and this element can be worn as part of the probe or incorporated with the surgical instrument (col. 4 lines 3-8). With respect to the transducer control unit, the system control unit is incorporated with the finger mount (col. 4 lines 44-59). As taught by Ustuner, in one embodiment, the system may be controlled by the contact sensor positioned on the tip of the probe. All of the individual elements of the probe including the transducer and transducer control unit are all incorporated within the finger-mount device (fig. 5, 6). The reference further teaches a tactile display, 730 to have skin-contacting element such as a prong 731 to touch the skin of the user 732 (fig. 7, col. 7 lines 38-44). Ustuner further teaches the system to

include a contact sensor positioned at the tip of the probe which sends a trigger signal once it comes in contact with a tissue surface and where this information can be conveyed in various display modes (col. 4 lines 51-59, col. 8 lines 23-34). The transducer can be one of various different kinds (col. 2 lines 50-56). The system includes a contact sensor positioned at the tip of the probe which senses contact with an adjacent surface, sending a trigger signal to activate the system (col. 4 lines 44-52). The system is activated to image the surgical site (col. 3 lines 22-32, col. 5 lines 51-58).

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ustuner in view of Seward (7037270). Ustuner teaches using the ultrasound system to obtain images during surgical procedures but does not teach using it for therapeutic applications. In the same field of endeavor Seward discloses an ultrasound system with transducer mounted on a finger for surgical or therapeutic purposes in small cavities (col. 2 lines 44-53, col. 6 lines 35-55). With respect to the system disclosed in Seward being operational for therapeutic applications, the reference teaches that the transducer is capable of having a working frequency in a range of 5-100 MHz and capable of being used for various applications including therapeutic applications. The miniaturized ultrasound transducer operable in small spaces may include other suitable frequency ranges such as frequencies commonly used for therapeutic ultrasound and for ultrasound microscopy (col. 3 lines 19-28, col. 6 lines 7-18). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Seward to modify the teaching by Ustuner for the purpose of providing effective ultrasonic therapy in small cavities or spaces (col. 2 lines 28-39).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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